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**SUBSTITUTE SENATE BILL 5826**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Berkey, Benton, Roach, Zarelli, Kauffman, Marr, Kilmer, Carrell, Hobbs, Schoesler, Franklin, Haugen and Shin)

READ FIRST TIME 02/22/07.

1       AN ACT Relating to consumer credit reports; amending RCW  
2 19.182.170; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4       **Sec. 1.** RCW 19.182.170 and 2005 c 342 s 1 are each amended to read  
5 as follows:

6       (1) A (~~victim of identity theft who has submitted a valid police~~  
7 ~~report to a consumer reporting agency~~) consumer, who is a resident of  
8 this state, may elect to place a security freeze on his or her credit  
9 report by making a request in writing by certified mail to a consumer  
10 reporting agency. "Security freeze" means a (~~notice placed in a~~  
11 ~~consumer's credit report, at the request of the consumer and subject to~~  
12 ~~certain exceptions, that prohibits the consumer reporting agency from~~  
13 ~~releasing the consumer's credit report or any information from it~~  
14 ~~without the express authorization of the consumer~~) prohibition,  
15 consistent with this section, on a consumer reporting agency's  
16 furnishing of a consumer's credit report to a third party intending to  
17 use the credit report to determine the consumer's eligibility for  
18 credit. If a security freeze is in place, information from a  
19 consumer's credit report may not be released to a third party without

1 prior express authorization from the consumer. This subsection does  
2 not prevent a consumer reporting agency from advising a third party  
3 that a security freeze is in effect with respect to the consumer's  
4 credit report.

5 (2) For purposes of this section and RCW 19.182.180 through  
6 19.182.210(~~(,a)~~):

7 (a) "Victim of identity theft" means(÷  
8 ~~(a) A victim of identity theft as defined in RCW 9.35.020; or~~  
9 ~~(b) A person who has been notified by an agency, person, or~~  
10 ~~business that owns or licenses computerized data of a breach in a~~  
11 ~~computerized data system which has resulted in the acquisition of that~~  
12 ~~person's unencrypted personal information by an unauthorized person or~~  
13 ~~entity)) a person who has a police report evidencing their claim to be~~  
14 ~~a victim of a violation of RCW 9.35.020 and which report will be~~  
15 ~~produced to a credit reporting agency, upon such credit reporting~~  
16 ~~agency's request.~~

17 (b) "Credit report" means a consumer report, as defined in 15  
18 U.S.C. Sec. 1681a, that is used or collected to serve as a factor in  
19 establishing a consumer's eligibility for credit for personal, family,  
20 or household purposes.

21 (c) "Normal business hours" means Sunday through Saturday, between  
22 the hours of 6:00 a.m. and 9:30 p.m. Pacific Standard Time.

23 (3) A consumer reporting agency shall place a security freeze on a  
24 consumer's credit report no later than five business days after  
25 receiving a written request from the consumer and payment of the fee  
26 required by the consumer credit reporting agency under subsection (13)  
27 of this section.

28 (4) The consumer reporting agency shall send a written confirmation  
29 of the security freeze to the consumer within ten business days and  
30 shall provide the consumer with a unique personal identification number  
31 or password to be used by the consumer when providing authorization for  
32 the release of his or her credit report for a specific party or period  
33 of time.

34 (5) If the consumer wishes to allow his or her credit report to be  
35 accessed for a specific (~~party or~~) period of time while a freeze is  
36 in place, he or she shall contact the consumer reporting agency,  
37 request that the freeze be temporarily lifted, and provide the  
38 following:

1 (a) Proper identification, which means that information generally  
2 deemed sufficient to identify a person. Only if the consumer is unable  
3 to sufficiently identify himself or herself, may a consumer reporting  
4 agency require additional information concerning the consumer's  
5 employment and personal or family history in order to verify his or her  
6 identity;

7 (b) The unique personal identification number or password provided  
8 by the credit reporting agency under subsection (4) of this section;  
9 (~~and~~)

10 (c) The proper information regarding (~~the third party who is to~~  
11 ~~receive the credit report or~~) the time period for which the report is  
12 available to users of the credit report; and

13 (d) Payment of the fee required by the consumer credit reporting  
14 agency under subsection (13) of this section.

15 (6) A consumer reporting agency that receives a request from a  
16 consumer to temporarily lift a freeze on a credit report under  
17 subsection (5) of this section(~~(7)~~) shall comply with the request (~~no~~  
18 ~~later than~~) within:

19 (a) Three business days (~~after~~) of receiving the request by mail;  
20 or

21 (b) Fifteen minutes of receiving the request from the consumer  
22 through the electronic contact method chosen by the consumer reporting  
23 agency in accordance with subsection (8) of this section, if the  
24 request:

25 (i) Is received during normal business hours; and

26 (ii) Includes the consumer's proper identification and correct  
27 personal identification number or password.

28 (7) A consumer reporting agency is not required to remove a  
29 security freeze within the time provided in subsection (6)(b) of this  
30 section if:

31 (a) The consumer fails to meet the requirements of subsection (5)  
32 of this section; or

33 (b) The consumer reporting agency's ability to remove the security  
34 freeze within fifteen minutes is prevented by:

35 (i) An act of God, including fire, earthquakes, hurricanes, storms,  
36 or similar natural disasters or phenomena;

37 (ii) Unauthorized or illegal acts by a third party, including

1 terrorism, sabotage, riot, vandalism, labor strikes, or disputes  
2 disrupting operations, or similar occurrences;

3 (iii) An interruption in operations, including electrical failure,  
4 unanticipated delay in equipment or replacement part delivery, computer  
5 hardware or software failures inhibiting response time, or similar  
6 disruptions;

7 (iv) Governmental action, including emergency orders or  
8 regulations, judicial or law enforcement action, or similar directives;

9 (v) Regularly scheduled maintenance of, or updates to, the consumer  
10 reporting agency's systems outside of normal business hours;

11 (vi) Commercially reasonable maintenance of, or repair to, the  
12 consumer reporting agency's systems that is unexpected or unscheduled;  
13 or

14 (vii) Receipt of a removal request outside of normal business  
15 hours.

16 (8) A consumer reporting agency may develop procedures involving  
17 the use of telephone, fax, the internet, or other electronic media to  
18 receive and process a request from a consumer to temporarily lift a  
19 freeze on a credit report under subsection (5) of this section in an  
20 expedited manner.

21 ~~((+8+))~~ (9) A consumer reporting agency shall remove or temporarily  
22 lift a freeze placed on a consumer's credit report only in the  
23 following cases:

24 (a) Upon consumer request, under subsection (5) or ~~((+11+))~~ (12) of  
25 this section; or

26 (b) When the consumer's credit report was frozen due to a material  
27 misrepresentation of fact by the consumer. When a consumer reporting  
28 agency intends to remove a freeze upon a consumer's credit report under  
29 this subsection, the consumer reporting agency shall notify the  
30 consumer in writing prior to removing the freeze on the consumer's  
31 credit report.

32 ~~((+9+))~~ (10) When a third party requests access to a consumer  
33 credit report on which a security freeze is in effect, and this request  
34 is in connection with an application for credit or any other use, and  
35 the consumer does not allow his or her credit report to be accessed for  
36 that ~~((specific party or))~~ period of time, the third party may treat  
37 the application as incomplete.

1       ~~((10))~~ (11) When a consumer requests a security freeze, the  
2 consumer reporting agency shall disclose the process of placing and  
3 temporarily lifting a freeze, and the process for allowing access to  
4 information from the consumer's credit report for a specific ~~((party~~  
5 ~~or))~~ period of time while the freeze is in place.

6       ~~((11))~~ (12) A security freeze remains in place until the consumer  
7 requests that the security freeze be removed. A consumer reporting  
8 agency shall remove a security freeze within three business days of  
9 receiving a request for removal from the consumer, who provides  
10 ~~((both))~~ all of the following:

11       (a) Proper identification, as defined in subsection (5)(a) of this  
12 section; ~~((and))~~

13       (b) The unique personal identification number or password provided  
14 by the consumer reporting agency under subsection (4) of this section;  
15 and

16       (c) Payment of the fee required by the consumer credit reporting  
17 agency under subsection (13) of this section.

18       ~~((12))~~ (13)(a) Except as provided in (b) of this subsection, a  
19 consumer credit reporting agency may charge a fee of no more than ten  
20 dollars to a consumer for placement of each freeze, temporary lift of  
21 the freeze, or removal of the freeze.

22       (b) A consumer credit reporting agency may not charge a fee to  
23 place a security freeze for a victim of identity theft or for a  
24 consumer, who is sixty-five years old or older.

25       (14) This section does not apply to the use of a consumer credit  
26 report by any of the following:

27       (a) A person or entity, or a subsidiary, affiliate, or agent of  
28 that person or entity, or an assignee of a financial obligation owing  
29 by the consumer to that person or entity, or a prospective assignee of  
30 a financial obligation owing by the consumer to that person or entity  
31 in conjunction with the proposed purchase of the financial obligation,  
32 with which the consumer has or had prior to assignment an account or  
33 contract, including a demand deposit account, or to whom the consumer  
34 issued a negotiable instrument, for the purposes of reviewing the  
35 account or collecting the financial obligation owing for the account,  
36 contract, or negotiable instrument. For purposes of this subsection,  
37 "reviewing the account" includes activities related to account

1 maintenance, monitoring, credit line increases, and account upgrades  
2 and enhancements;

3 ~~(b) ((A subsidiary, affiliate, agent, assignee, or prospective~~  
4 ~~assignee of a person to whom access has been granted under subsection~~  
5 ~~(5) of this section for purposes of facilitating the extension of~~  
6 ~~credit or other permissible use;~~

7 ~~(e))~~ Any federal, state, or local entity, including a law  
8 enforcement agency, court, or their agents or assigns;

9 ~~((d) A private collection agency))~~ (c) Any person acting under a  
10 court order, warrant, or subpoena;

11 ~~((e))~~ (d) A child support agency acting under Title IV-D of the  
12 social security act (42 U.S.C. et seq.);

13 ~~((f))~~ (e) The department of social and health services acting to  
14 fulfill any of its statutory responsibilities;

15 ~~((g))~~ (f) The internal revenue service acting to investigate or  
16 collect delinquent taxes or unpaid court orders or to fulfill any of  
17 its other statutory responsibilities;

18 ~~((h))~~ (g) The use of credit information for the purposes of  
19 prescreening as provided for by the federal fair credit reporting act;

20 ~~((i))~~ (h) Any person or entity administering a credit file  
21 monitoring subscription service to which the consumer has subscribed;

22 ~~(and~~

23 ~~(j))~~ (i) Any person or entity for the purpose of providing a  
24 consumer with a copy of his or her credit report upon the consumer's  
25 request; and

26 (j) A mortgage broker or loan originator required to be licensed  
27 under chapter 19.146 RCW.

28 (15) Liability may not result to the consumer credit reporting  
29 agency if through inadvertence or mistake the consumer credit reporting  
30 agency releases credit report information to a person or entity  
31 purporting to be a mortgage broker or loan originator under subsection  
32 (14) of this section that is, in fact, not a mortgage broker or loan  
33 originator.

34 (16) The consumer's request for a security freeze does not prohibit  
35 the consumer reporting agency from disclosing the consumer's credit  
36 report for other than credit-related purposes.

37 (17) A violation of subsection (6) of this section does not provide

1 a cause of action under RCW 19.86.090. A violation of subsection (6)  
2 of this section is subject to all other remedies and penalties  
3 available under this chapter.

4 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2009.

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